



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Masateru NAKAMURA

Attention: Director of Technology
Center 1700

Group Art Unit: 1793

Application No.: 10/566,607

Examiner: M. STALDER

Filed: January 31, 2006

Docket No.: 126868

For: METHOD OF PRODUCTION OF SILICON CARBIDE SINGLE CRYSTAL

**PETITION UNDER 37 C.F.R. §1.181
TO RESET PERIOD OF REPLY TO OFFICE ACTION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

According to the USPTO PAIR database, a Notice of Allowance was mailed by the USPTO on May 14, 2009, for the above-identified application. However, Applicant's undersigned representative hereby states that such Office Action was never received through the mail by the law firm of Oliff & Berridge, or by the Applicant or anyone else associated with the prosecution of this application.

On June 10, 2009, Applicant's representative conducted a routine status check of the application, using the USPTO PAIR database. At that time, Applicant's representative discovered the existence of the May 14, 2009, Notice of Allowance. Applicant's undersigned representative also discovered that the May 14, 2009, Office Action was returned to the USPTO Office of Initial Patent Examination (OIPE) on May 18, 2009. It appears from the May 18, 2009, entry in the USPTO Image File Wrapper system (copy attached) that the

address for Oliff & Berridge was not present or not visible on the Notice of Allowance as mailed on May 14, 2009. The Notice of Allowance was then apparently returned to OIPE.

On June 10, 2009, Applicant's undersigned representative immediately contacted the Examiner of record, confirming that the address was not visible, requesting that the Notice of Allowance be remailed, and the date for response be reset. On June 10, 2009, the Examiner informed Applicant's undersigned representative that she and her supervisor would look into the issue and have the Notice of Allowance remailed with a new due date for response. On June 22, when a new Notice of Allowance was not present on the PAIR system, Applicant's Representative again contacted the Examiner of record, who indicated that she and her supervisor were still attempting to have the Notice of Allowance remailed.

Because an Image File Wrapper of this application was available from the USPTO, on June 22, 2009, Applicant's undersigned representative downloaded the May 14, 2009, Notice of Allowance. Accordingly, through Applicant's own efforts, Applicant obtained the May 14, 2009, Office Action on June 22, 2009.

Accordingly, Applicant requests that the time period for replying to the outstanding Final Office Action be reset to start on June 22, 2009, i.e., the date that Applicant became aware of, and obtained by downloading from the PTO website, the May 14, 2009 Notice of Allowance.

Applicant's undersigned representative submits that Applicant has satisfied the requirements set forth in MPEP 710.06, which relates to the present situation. In particular, section I of MPEP 710.06 most closely relates to the present situation, although, as explained above, Applicant never received the Office Action through the mail, but rather obtained the Final Office Action from the USPTO Image File Wrapper available over PAIR. With respect to section I(A), this Petition is being filed within two weeks of the June 22, 2009, date of receipt of the Office Action. With respect to section I(B), a substantial portion of the set

reply period (i.e., more than one month) had elapsed when Applicant received the Office Action. With respect to I(C), Applicant's undersigned representative has explained and set forth the date of receipt of the Office Action. Applicant cannot show any evidence regarding receipt of the Office Action that was mailed by the Patent Office, because Applicant still has not received the Office Action that was allegedly mailed. However, Applicant can show that that the May 14, 2009, Office Action was returned to the Patent Office.

In order to establish that the May 14, 2009, Notice of Allowance was not received by mail by Applicant's undersigned representative, attached hereto are two sheets related to the above-identified application. Sheet 1 is an outline of the image file wrapper for this application. The May 18, 2009, entry states that mail was returned to the Patent Office as undeliverable. Sheet 2 was downloaded from the May 18, 2009 entry. Sheet 2 identifies the May 14, 2009, Notice of Allowance as having been mailed without the addressee visible, and returned to the USPTO OIPE on May 18, 2009. Sheet 3 indicates that the May 14, 2008, Final Office Action was entered into Oliff & Berridge's computerized docketing system on June 22, 2009.

Accordingly, the May 14, 2009, Office Action was not entered into Oliff & Berridge's computerized docketing system until the downloaded version was obtained on June 22, 2009, by Applicant's undersigned representative, and promptly given to the Oliff & Berridge docketing department. As the Oliff & Berridge docketing department immediately enters Patent Office communications when received (usually by mail from the Patent Office), the fact that the Office Action was not entered until June 22, 2009, further establishes that the Office Action allegedly mailed by the Patent Office on May 14, 2009 was never received by Oliff & Berridge.

Although it is believed that no fee is due, the Patent Office is authorized to charge Deposit Account No. 15-0461 for any fees deemed necessary to grant this Petition.

The appropriate Patent Office official is invited to contact Applicant's undersigned attorney at the telephone number listed below if there are any questions or if any additional information is desired.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Nicolas A. Brentlinger
Registration No. 62,211

JAO:NAB/hs

Attachments:
3 sheets

Date: June 25, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
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10/566,607 METHOD OF PRODUCTION OF SILICON CARBIDE SINGLE CRYSTAL

06-25-
2009::12:39:46

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.

Available Documents

Mail Room	Date	Document Code	Document Description	Page Count
05-18-2009	RETMAIL		Mail returned to USPTO as undelivered	5
05-14-2009	NOA		Notice of Allowance and Fees Due (PTOL-85)	4
05-14-2009	IIFW		Issue Information including classification, examiner, name, claim, renumbering, etc.	1
05-14-2009	SRFW		Search information including classification, databases and other search related notes	1
02-10-2009	A...		Amendment/Req. Reconsideration-After Non-Final Reject	1
02-10-2009	CLM		Claims	4
02-10-2009	REM		Applicant Arguments/Remarks Made in an Amendment	8
02-10-2009	WFEE		Fee Worksheet (PTO-875)	1
12-12-2008	EXIN		Examiner Interview Summary Record (PTOL - 413)	2
12-12-2008	EXIN		Examiner Interview Summary Record (PTOL - 413)	1
11-10-2008	CTNF		Non-Final Rejection	7
11-10-2008	892		List of references cited by examiner	1
11-10-2008	SRFW		Search information including classification, databases and other search related notes	1
11-10-2008	BIB		Bibliographic Data Sheet	1
11-10-2008	SRNT		Examiner's search strategy and results	6
11-10-2008	1449		List of References cited by applicant and considered by examiner	1
07-24-2008	APP.FILE.REC		Filing Receipt	3
03-10-2008	CFILE		Request for Corrected Filing Receipt	4
02-15-2008	APP.FILE.REC		Filing Receipt	3
02-15-2008	M903		Notice of DO/EO Acceptance Mailed	1
02-15-2008	PEFN		Pre-Exam Formalities Notice	1
01-07-2008	APP.FILE.REC		Filing Receipt	3
12-17-2007	CFILE		Request for Corrected Filing Receipt	4
12-06-2007	M903		Notice of DO/EO Acceptance Mailed	1
12-06-2007	PEFN		Pre-Exam Formalities Notice	1
12-06-2007	APP.FILE.REC		Filing Receipt	3
06-06-2007	CFILE		Request for Corrected Filing Receipt	6
02-05-2007	IRFND		Processed Request for Refund	4
01-30-2007	RFND		Refund Denied	3
12-28-2006	NTC.PUB		Notice of Publication	1
12-06-2006	CFILE		Request for Corrected Filing Receipt	4
12-05-2006	PET.DEC.OIPE		Petition decision routed to the OIPE to act on the decision or continue prosecution.	2
11-09-2006	APP.FILE.REC		Filing Receipt	3
10-04-2006	CFILE		Request for Corrected Filing Receipt	5
10-04-2006	IRFND		Processed Request for Refund	4
09-29-2006	PET.OP		Petition for review by the Office of Petitions.	14
09-06-2006	M903		Notice of DO/EO Acceptance Mailed	2
07-21-2006	PEFR		Applicant Response to Pre-Exam Formalities Notice	6
07-21-2006	OATH		Oath or Declaration filed	3
07-21-2006	IMIS		Miscellaneous Internal Document	1
07-21-2006	WFEE		Fee Worksheet (PTO-875)	1
07-21-2006	WFEE		Fee Worksheet (PTO-875)	1



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If Undeliverable Return In Ten Days

Official Business

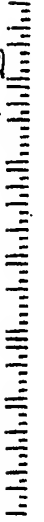
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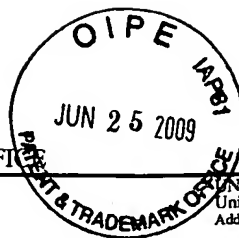
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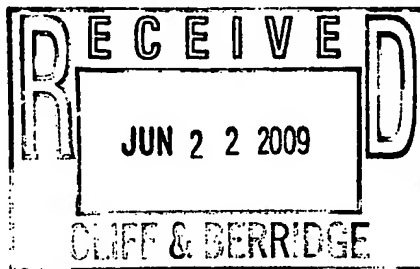
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UNITED STATES DEPARTMENT OF COMMERCE
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NOTICE OF ALLOWANCE AND FEE(S) DUE

25944 7590 05/14/2009
OLIFF & BERRIDGE, PLC
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ALEXANDRIA, VA 22320-4850



EXAMINER	
STALDER, MELISSA A	
ART UNIT	PAPER NUMBER
1793	
DATE MAILED: 05/14/2009	

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,607	01/31/2006	Masateru Nakamura	126868	7140
TITLE OF INVENTION: METHOD OF PRODUCTION OF SILICON CARBIDE SINGLE CRYSTAL				

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	08/14/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

DUE DATE
AUG 14 2009

DOCKETED
By SCF on 6/22 2009
and
By clm on 06/22 2009
Oliff & Berridge

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.